**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No. 7549 of 2015(O&M)

Date of decision: 22.11.2019

Khurshid and another …..Appellants

VERSUS

Reliance General Insurance Co. Ltd. and another .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Joginder Singh, Advocate for
Mr. Arjun Attri, Advocate for the appellants.

Ms. Swati Batra, Advocate for the insurance company.

Mr. Vipul Sharma, Advocate for
Mr. Paul S. Saini, Advocate amicus curiae.

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REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 21.08.2015 passed by the Motor Accidents Claims Tribunal, Mewat (in short 'the Tribunal') whereby compensation has been assessed in respect of injuries sustained by Johruddin in a motor vehicular accident that took place on 25.06.2014.

The appeal has been filed by the owner and driver of offending vehicle to express their grievance against exoneration of insurance company to pay compensation on the premise that the vehicle was transferred by the owner but the insurance policy was not transferred in the name of transferee.

Counsel for the appellants would argue that under Section 157(1) of the Motor Vehicles Act, 1988 (in short 'the Act'), the certificate of insurance and policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer. It is argued that since on the date of occurrence, the registration certificate already stood transferred in the name of transferee, the insurance company has wrongly been exonerated of liability to pay compensation. In support of his contention, he has relied upon judgments of Hon'ble the Supreme Court **Managing Director, K.S.R.T.C. Vs. New India Assurance Co. Ltd. and another 2015(4) RR (Civil) 938; G. Govindan Vs. New India Assurance Co. Ltd. 1999 (2) RCR (Civil) 489** and **United India Insurance Co. Ltd. Shimla Vs. Tilak Singh and others, 2006(3) RCR (Civil) 168.** Further reference has been made to judgment of this Court **Gobind Ram Vs. Umed Singh and others, 2008(3) RCR (Civil) 276.**

Counsel for the insurance company, while refuting contention of counsel for the appellants, has submitted that as the transferee, in compliance with the provisions of Section 157(2) of the Act did not apply within 14 days from the date of transfer to the insurer for making necessary changes in regard to the fact of transfer in the certificate of insurance and the policy described in the certificate in his favour, the insurance company has rightly been exonerated of liability to pay compensation. For this purpose, reliance has been placed upon judgment of Hon'ble the Supreme Court **Rikhi Ram and another Vs. Smt. Sukhrania and others, 2003(1) RCR (Civil) 756.** Further reference has been made to judgments of Karnataka High Court **M/s United India Assurance Co. Ltd. Mysore Vs.**

M.N. Ravikumar and others, 2008 ACJ 1681 and **Krishnashetty Vs. Oriental Insurance Co. Ltd. and others, 2010 ACJ 2427.**

I have heard counsel for the parties, perused the paper-book and the judgments cited at bar.

Before adverting to the submissions made by counsel for the parties, it is appropriate to extract the provisions of Section 157 of the Act, germane to the present controversy, quoted thus:-

> 157. Transfer of certificate of insurance.—
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> (1) Where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter transfers to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer.
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> (2) The transferee shall apply within fourteen days from the date of transfer in the prescribed form to the insurer for making necessary changes in regard to the fact of transfer in the certificate of insurance and the policy described in the certificate in his favour and the insurer shall make the necessary changes in the certificate and the policy of insurance in regard to the transfer of insurance."

Perusal of Section 157(1) of the Act extracted hereinbefore makes it evident that certificate of insurance and policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred from the date of its transfer. There is no dispute that in the instant case the vehicle stood transferred prior to the date of accident, therefore, in view of deeming provision prescribed in Section 157(1) of the Act, there is no escape from conclusion that certificate of insurance and the policy described in the certificate stand transferred in favour of the transferee with effect from the date of its transfer. Taking into consideration the fiction created by the legislature in favour of the transferee, it is difficult to accept contention of the insurance company that since the transferee did not submit an application for making necessary changes in the certificate of insurance and the policy described in the certificate in compliance with the provisions of sub-Section (2) of Section 157 of the Act, the insurance company can either escape liability to pay compensation to the victim or can press for right of recovery against the insured/owner of the offending vehicle. The judgments cited by counsel for the appellants squarely answer the aforesaid issue in favour of the appellants whereas in **Rikhi Ram and another case** (supra), there is no such ratio laid down by Hon'ble the Apex Court on the basis whereof the insurer has been given liberty to recover the amount either from the insured or transferee of the vehicle.

In this view of the matter, I find merit in contention of the appellants that findings of the Tribunal absolving the insurance company of liability to pay compensation are not legally sustainable and liable to be set aside. As a natural corollary, the insurance company shall be jointly and severally liable to pay compensation to the respondent/claimant..

No other point has been raised.

In view of what has been discussed hereinbefore, the appeal is allowed in the aforesaid terms leaving the parties to bear their own costs.

NOVEMBER 22, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no